

**APPENDIX M
PROPOSED RULES - PART 97**

CURRENT RULE NUMBER	SUBJECT (proposed change)	PROPOSED NEW OR REVISED RULE NUMBER
97.3	Definitions (add definition for Universal Licensing System (ULS)).	97.3(45)
97.5	Station license required (change form number and revise to reflect ULS implementation).	97.5
97.7	Control operator required (change form number and revise to reflect ULS implementation).	97.7
97.9	Operator license (change form number and revise to reflect ULS implementation).	97.9
97.13	Restrictions on station location (add cross reference to OET Bulletin No. 65).	97.13
97.15 (a), (b), (d)	Station antenna structures (change form number and revise to reflect ULS implementation).	97.15(a), (b), (d)
97.17	Application for new license or reciprocal permit for alien amateur licensee (change form number and revise to reflect electronic filing of information).	97.17
97.19	Application for a vanity call sign (change form number and revise to reflect electronic filing of information).	97.19
97.21	Application for a modified or renewed license (change form number and revise to reflect electronic filing of information).	97.21
97.23	Mailing Address (change to allow electronic filing of information).	97.23
97.25	License Term (remove license term for a reciprocal permit for alien amateur licensee).	97.25
97.27	FCC Modification of Station License (Clarify).	97.27
97.29	Replacement license document (change to allow electronic filing of information via Universal Licensing System).	97.29
97.107	Reciprocal operating privileges (revise title and add introductory text).	97.107

97.119(g)	Station identification (revise to cross-reference 47 C.F.R. § 97.107).	97.119(g)
97.201(a)	Auxiliary station (revise to include Technician Plus)	97.201(a)
97.203(a)	Beacon station (revise to include Technician Plus).	97.203(a)
97.207(g),(h), (i)	Space station (change to allow electronic filing of information via ULS).	97.207(g), (h), (i)
97.505(a)(10)	Element credit (change form number to reflect ULS forms).	97.505(a)(10)
97.509(i)	Administering VE requirements (change form number to reflect ULS forms and revise section).	97.509(i)
97.519(b)	Coordinating examination sessions (change form number to reflect ULS forms).	97.519(b)

PART 97-AMATEUR RADIO SERVICE

154. The authority citation for Part 97 continues to read as follows:

AUTHORITY: Secs. 4, and 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154 and 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended: 47 U.S.C. 151-155, 301-699, unless otherwise noted.

155. Section 97.3 is amended by adding a new paragraph (45) and renumbering the remaining paragraphs accordingly to read as follows:

Sec. 97.3 Definitions

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(45) *ULS (Universal Licensing System)*. The consolidated database, application filing system and processing system for all Wireless Telecommunications Services.

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156. Section 97.5 is amended by revising it to read as follows:

Sec. 97.5 Station license grant required.

(a) The station apparatus must be under the physical control of a person named in an amateur station license grant on the ULS consolidated license database or a person authorized for alien reciprocal operation by Section 97.107 of this Part, before the station may transmit on any amateur service frequency from any place that is:

* * * * *

(b) The types of station license grants are:

(1) An operator/primary station license grant. One, but only one, operator/primary station license grant may be held by any one person. The primary station license is granted together with the amateur operator license. Except for a representative of a foreign government, any person who qualifies by examination is eligible to apply for an operator/primary station license grant.

(2) A club station license grant. A club station license grant may be held only by the person who is the license trustee designated by an officer of the club. The trustee must be a person who holds an Amateur Extra, Advanced, General, Technician Plus, or Technician operator license grant. The club must be composed of at least four persons and must have a name, a document of organization, management, and a primary purpose devoted to amateur service activities consistent with this part.

(3) A military recreation station license grant. A military recreation station license grant may be held only by the person who is the license custodian designated by the official in charge of the United States military recreational premises where the station is situated. The person must not be a representative of a foreign government. The person need not hold an amateur operator license grant.

(4) A RACES station license grant. A RACES station license grant may be held only by the person who is the license custodian designated by the official responsible for the governmental agency served by that civil defense organization. The custodian must be the civil defense official responsible for coordination of all civil defense activities in the area concerned. The custodian must not be a representative of a foreign government. The custodian need not hold an amateur operator license grant.

(c) The person named in the station license grant or who is authorized for alien reciprocal operation by Section 97.107 of this Part may use, in accordance with the applicable rules of this Part, the transmitting apparatus under the physical control of the person at places where the amateur service is regulated by the FCC.

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157. Section 97.7 is amended by revising it to read as follows:

Sec. 97.7 Control operation required.

When transmitting, each amateur station must have a control operator. The control operator must be a person:

(a) For whom an amateur operator/primary station license grant appears on the ULS consolidated licensee database, or

(b) Who is authorized for alien reciprocal operation by Section 97.107 of this Part.

158. Section 97.9 is amended by revising it to read as follows:

Sec. 97.9 Operator license grant.

(a) The classes of amateur operator license grants are: Novice, Technician, Technician Plus (until such licenses expire, a Technical Class license granted before February 14, 1991, is considered a

Technician Plus Class license), General, Advanced, and Amateur Extra. The person named in the operator license grant is authorized to be the control operator of an amateur station with the privileges authorized to the operator class specified on the license grant.

(b) The person named in an operator license grant of Novice, Technician, Technician Plus, General or Advanced Class, who has properly submitted to the administering VEs, a FCC Form 605 document requesting examination for an operator license grant of a higher class, and who holds a CSCE indicating that the person has completed the necessary examinations within the previous 365 days, is authorized to exercise the rights and privileges of the higher operator class until a final disposition of the application or until 365 days following the passing of the examination, whichever comes first.

159. Section 97.13 is amended by revising paragraphs (a), (b), and (c)(2) to read as follows:

Sec. 97.13 Restrictions on station location.

(a) Before placing an amateur station on land of environmental importance or that is significant in American history, architecture or culture, the licensee may be required to take certain actions prescribed by Sections 1.1305-1.1319 of this chapter.

(b) * * *. Geographical coordinates of the facilities that require protection are listed in Section 0.121(c) of this chapter.

(c) * * *

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(2) * * *. Further information on evaluating compliance with these limits can be found in the OET Bulletin Number 65, "Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields."

160. Section 97.15 is amended by revising paragraph (a), (b) and (d) to read as follows:

Sec. 97.15 Station antenna structures.

(a) Unless the amateur station license grantee has received prior approval from the FCC, no antenna structure, including the radiating elements, tower, supports and all appurtenances, may be higher than 61 m (200 feet) above ground level at its site.

(b) Unless the amateur station license grantee has received prior approval from the FCC, no antenna structure, at an airport or heliport that is available for public use and is listed in the *Airport Directory* of the current *Airman's Information Manual* or in either the *Alaska* or *Pacific Airman's Guide and Chart supplement*; or at an airport or heliport under construction that is the subject of a notice or proposal on file with the FAA, and except for military airports, it is clearly indicated that the airport will be available for public use; or at an airport or heliport that is operated by the armed forces of the United States; or at a place near any of these airports or heliports, may be higher than:

* * * * *

(d) Further details as to whether an aeronautical study is required or if the structure must be registered, painted, or lighted are contained in Part 17 of this chapter, Construction, Marking, and Lighting of Antenna Structures. To request approval to place an antenna structure higher than the limits specified in paragraphs (a), (b) and (c) of this section, the licensee must notify the FAA using FAA Form 7460-1 and the structure owner must register the structure with the Wireless Telecommunications Bureau using FCC Form 854.

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161. Section 97.17 is amended by removing paragraphs (c), (d) and (g) and revising and redesignating the entire section to read as follows:

Sec. 97.17 Application for new license grant.

(a) Any qualified person is eligible to apply for a new operator/primary station, club station or military recreation station license grant. No new license grant will be issued for a RACES station.

(b) Each application for a new amateur service license grant must be filed with the FCC as follows:

(1) For a new operator/primary station license grant, a properly completed FCC Form 605 document must be presented to the VEs administering the requisite qualifying examination to the applicant. When the examination is successful, the VEs submit the FCC Form 605 document to the coordinating VEC, who in turn, submits the information thereon to the FCC in an electronic batch file.

(2) For a new club or military recreation station license grant, a properly completed FCC Form 605 document must be presented to an amateur radio organization having tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 that provides voluntary, uncompensated and unreimbursed services in providing club and military recreation station call signs ("*Club Station Call Sign Administrator*") who must submit the information on the FCC Form 605 document to the FCC in an electronic batch file. The Club Station Call Sign Administrator must retain the FCC Form 605 document for at least 15 months and make it available to the FCC upon request. The FCC will issue public announcements listing the qualified organizations that have completed a pilot autogrant batch filing project and are authorized to serve as a Club Station Call Sign Administrator.

(c) No person shall obtain or attempt to obtain, or assist another person to obtain, or attempt to obtain, an amateur service license grant by fraudulent means.

(d) One unique call sign will be shown on the license grant of each new primary, club and military recreation station. The call sign will be selected by the sequential call sign system.

162. Section 97.19 is amended by revising it to read as follows:

Sec. 97.19 Application for a vanity call sign.

(a) The person named in an operator/primary station license grant or in a club station license grant is eligible to make application for modification of the license grant, or the renewal thereof, to show a call sign selected by the vanity call sign system. RACES and military recreation stations are not eligible for a vanity call sign.

(b) Each application for a modification of an operator/primary or club station license grant, or the renewal thereof, to show a call sign selected by the vanity call sign system must be filed in accordance with the instructions contained in the Wireless Telecommunications Bureau Fee Filing Guide. The application must be filed on FCC Form 605 in interactive electronic form (preferred) or in document form.

(c) Unassigned call signs are available to the vanity call sign system with the following exceptions:

(1) A call sign shown on an expired license grant is not available to the vanity call sign system for 2 years following the expiration of the license.

(2) A call sign shown on a surrendered, revoked, set aside, cancelled, or voided license grant is not available to the vanity call sign system for 2 years following the date such action is taken.

(3) Except for an applicant who is the spouse, child, grandchild, stepchild, parent, grandparent, stepparent, brother, sister, stepbrother, stepsister, aunt, uncle, niece, nephew, or in-law, and except for an applicant who is a club station license trustee acting with the written consent of at least one relative, as listed above, of a person now deceased, the call sign shown on the license of person now deceased is not available to the vanity call sign system for 2 years following the person's death, or for 2 years following the expiration of the license grant, whichever is sooner.

(d) * * *

(1) The applicant must request that the call sign shown on the license grant be vacated and provide a list of up to 25 call signs in order of preference.

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163. Section 97.21 is amended by revising and renumbering entire section to read as follows:

Sec. 97.21 Application for a modified or renewed license grant.

(a) A person holding a valid amateur station license grant:

(1) Must apply to the FCC for a modification of the license grant as necessary to show the correct mailing address, licensee name, club name, license trustee name or license custodian name. The application must be filed on FCC Form 605.

(i) For an operator/primary station license grant, it must be submitted in interactive electronic form (preferred) or in document form to: FCC, 1270 Fairfield Road, Gettysburg, PA 17325-7245.

(ii) For a club, military recreation or RACES station license grant, it must be presented in document form to a Club Station Call Sign Administrator who must submit the information thereon to the FCC in an electronic batch file. The Club Station Call Sign Administrator must retain the FCC Form 605 document for at least 15 months and make it available to the FCC upon request.

(2) May apply to the FCC for a modification of the operator/primary station license grant to show a higher operator class. A properly completed FCC Form 605 document must be presented to the VEs administering the requisite qualifying examination to the applicant. When the examination is successful, the VEs submit the FCC Form 605 document to the coordinating VEC who, in turn, submits the information thereon to the FCC in an electronic batch file.

(3) May apply to the FCC for renewal of the license grant for another term. The application must be filed on FCC Form 605.

(i) For a station license grant showing a call sign obtained through the vanity call sign system, the application must be filed in accordance with Section 97.19 of this Part in order to have the vanity

call sign reassigned to the station.

(ii) For a primary station license grant showing a call sign obtained through the sequential call sign system, and for a primary station license grant showing a call sign obtained through the vanity call sign system but whose grantee does not want to have the vanity call sign reassigned to the station, the application must be filed with the FCC in interactive electronic form (preferred) or in document form to: FCC, 1270 Fairfield Road, Gettysburg, PA 17325-7245. When the application has been received by the FCC on or before the license expiration date, the license operating authority is continued until the final disposition of the application.

(iii) For a RACES station license grant, for a club station or military recreation station license grant showing a call sign obtained through the sequential call sign system, and for a club or military recreation station license grant showing a call sign obtained through the vanity call sign system but whose grantee does not want to have the vanity call sign reassigned to the station, the application must be presented in document form to a Club Station Call Sign Administrator who must submit the information thereon to the FCC in an electronic batch file. The Club Station Call Sign Administrator must retain the FCC Form 605 document for at least 15 months and make it available to the FCC upon request.

(b) A person whose amateur station license grant has expired may apply to the FCC for renewal of the license grant for another term during a 2 year filing grace period. The application must be received at the address specified above prior to the end of the grace period. Unless and until the license grant is renewed, no privileges in this Part are conferred.

(c) A call sign obtained under the sequential call sign system will be reassigned to the station upon renewal or modification of a station license.

164. Section 97.23 is amended by revising it to read as follows:

Sec. 97.23 Mailing address.

Each license grant must show the grantee's correct name and mailing address. The mailing address must be in an area where the amateur service is regulated by the FCC and where the grantee can receive mail delivery by the United States Postal Service. Revocation of the station license or suspension of the operator license may result when correspondence from the FCC is returned as undeliverable because the grantee failed to provide the correct mailing address.

165. Section 97.25 is amended by revising it to read as follows:

Sec. 97.25 License Term.

An amateur service license is normally granted for a 10-year term.

166. Section 97.27 is amended by revising the title and paragraph (a) to read as follows:

Sec. 97.27 FCC Modification of station license grant.

(a) The FCC may modify a station license grant, either for a limited time or for the duration of the term thereof, if it determines:

* * * * *

167. Section 97.29 is amended by revising the title and section to read as follows:

Sec. 97.29 Replacement license grant document.

Each grantee whose amateur station license grant document is lost, mutilated or destroyed may apply to the FCC for a replacement on FCC Form 605.

(a) For replacement of an operator/primary station license grant document, the request must be filed with the FCC in interactive electronic form (preferred) or in document form to: FCC, 1270 Fairfield Road, Gettysburg, PA 17325-7245.

(b) For replacement of a club station, military recreation station or RACES station license grant document, a properly completed FCC Form 605 document must be presented to a Club Station Call Sign Administrator who must submit the information thereon to the FCC in an electronic batch file. The Club Station Call Sign Administrator must retain the FCC Form 605 document for at least 15 months and make it available to the FCC upon request.

168. Section 97.107 is amended by revising the title and section to read as follows:

Sec. 97.107 Reciprocal operating authority.

A non-citizen of the United States ("alien") holding an amateur service authorization granted by the alien's government is authorized to be the control operator of an amateur station located at places where the amateur service is regulated by the FCC, provided there is in effect a multilateral or bilateral reciprocal operating arrangement, to which the United States and the alien's government are parties, for amateur service operation on a reciprocal basis. The FCC will issue public announcements listing the countries with which the United States has such an arrangement. No citizen of the United States or person holding an FCC amateur operator/primary station license grant is eligible for the reciprocal operating authority granted by this section. The privileges granted to a control operator under this authorization are:

(a) For an amateur service license granted by the Government of Canada:

(1) The terms of the *Convention Between the United States and Canada (TIAS No. 2508) Relating to the Operation by Citizens of Either Country of Certain Radio Equipment or Stations in the Other Country*;

(2) The operating terms and conditions of the amateur service license issued by the Government of Canada; and

(3) The applicable rules of this Part, but not to exceed the control operator privileges of an FCC-granted Amateur Extra Class operator license.

(b) For an amateur service license granted by any country, other than Canada, with which the United States has a multilateral or bilateral agreement:

(1) The terms of the agreement between the alien's government and the United States;

(2) The operating terms and conditions of the amateur service license granted by the alien's government;

(3) The applicable rules of this Part, but not to exceed the control operator privileges of an FCC-granted Amateur Extra Class operator license; and

(4) [deleted]

(c) At any time the FCC may, in its discretion, modify, suspend or cancel the reciprocal operating authority granted to any person by this section.

169. Section 97.119 is amended by revising paragraph (g) to read as follows:

Sec. 97.119 Station identification.

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(g) When the station is transmitting under the authority of Section 97.107 of this Part, an indicator consisting of the appropriate letter-numeral designating the station location must be included before the call sign that was issued to the station by the country granting the license. For an amateur service license granted by the Government of Canada, however, the indicator must be included after the call sign. At least once during each intercommunication, the identification announcement must include the geographical location as nearly as possible by city and state, commonwealth or possession.

170. Section 97.201 is amended by revising paragraph (a) to read as follows:

Sec. 97.201 Auxiliary station.

(a) Any amateur station licensed to a holder of a Technician, Technician Plus, General, Advanced or Amateur Extra Class operator license may be an auxiliary station. A holder of a Technician, Technician Plus, General, Advanced or Amateur Extra Class operator license may be the control operator of an auxiliary station, subject to the privileges of the class of operator license held.

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171. Section 97.203 is amended by amending paragraph (a) to read as follows:

Sec. 97.203 Beacon station.

(a) Any amateur station licensed to a holder of a Technician, Technician Plus, General, Advanced or Amateur Extra Class operator license may be a beacon. A holder of a Technician, Technician Plus, General, Advanced or Amateur Extra Class operator license may be the control operator of a beacon, subject to the privileges of the class of operator license held.

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172. Section 97.207 is amended by revising paragraphs (g), (h) and (i) to read as follows:

Sec. 97.207 Space station.

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(g) The license grantee of each space station must make two written pre-space station notifications to the International Bureau, FCC, Washington, DC 20554. Each notification must be accord with the provisions of Articles 11 and 13 of the Radio Regulations.

(h) The license grantee of each space station must make a written in-space station notification to the International Bureau no later than 7 days following initiation of space station transmissions. The notification must update the information contained in the pre-space notification.

(i) The license grantee of each space station must make a written post-space station notification to the International Bureau no later than 3 months after termination of the space station transmissions. When the termination is ordered by the FCC, notification is required no later than 24 hours after termination.

173. Section 97.505 is amended by revising paragraph (a) to read as follows:

Sec. 97.505 Element Credit.

(a) * * *

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(10) An unexpired (or expired but within the grace period for renewal) FCC-granted Novice, Technician Plus (including a Technician Class operator license granted before February 14, 1991), General, or Advanced Class operator license document, and a FCC Form 605 document containing:

(i) * * *

(ii) * * *

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174. Section 97.509 is amended by revising paragraph (i) to read as follows:

Sec. 97.509 Administering VE requirements.

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(i) When the examinee is credited for all examination elements required for the operator license sought, 3 VEs must certify on the examinee's FCC Form 605 license grant application document that the examinee is qualified for the license grant and that the VEs have complied with these administering VE requirements. The certifying VEs are jointly and individually accountable for the proper administration of each examination element reported on the examinee's FCC Form 605. The certifying VEs may delegate to other qualified VEs their authority, but not their accountability, to administer individual elements of an examination

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175. Section 97.519(b) is amended by revising paragraph (b) to read as follows:

Sec. 97.519 Coordinating examination sessions.

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(b) At the completion of each examination session, the coordinating VEC must collect the FCC Forms 605 documents and tests results from the administering VEs. Within 10 days of collecting the FCC Forms 605 documents, the coordinating VEC must:

- (1) Screen each FCC Form 605 document;
- (2) Resolve all discrepancies appearing on the FCC Form 605 documents and verify that the VE's certifications are properly completed; and
- (3) For qualified examinees, forward electronically the data contained on the FCC Forms 605 documents, or forward the FCC Form 605 documents to: FCC, 1270 Fairfield Road, Gettysburg, PA 17325-7245. When the data is forwarded electronically, the coordinating VEC must retain the FCC Forms 605 documents for at least 15 months and make them available to the FCC upon request.

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APPENDIX N
PROPOSED RULES - PART 101

CURRENT RULE NUMBER	SUBJECT (proposed change)	PROPOSED NEW OR REVISED RULE NUMBER
101.3	Definitions (change to allow electronic filing of information via ULS).	101.3
101.5(b)	Station Authorization Required (change form number to reflect ULS forms).	101.5(b)
101.9	Formal and informal applications (move to consolidated Part 1 Rule).	1.913, 1.915
101.11	Filing of applications, fees and number of copies move to consolidated Part 1 Rule).	1.913, 1.915
101.13	Application forms and requirements for private operational fixed stations (move to consolidated Part 1 Rule).	1.913, 1.915, 1.949
101.15	Application forms for common carrier fixed stations (move to consolidated Part 1 Rule).	1.913, 1.915, 1.949
101.19	General application requirements (move to consolidated Part 1 Rule).	1.915
101.21(g)	Technical Content of Applications (change form number to reflect ULS forms).	101.21(g)
101.23	Waiver (change to reflect electronic filing via ULS).	101.23
101.25	Inconsistent or conflicting applications (move to consolidated Part 1 Rule).	1.937
101.27	Repetitious applications (move to consolidated Part 1 Rule).	1.937
101.29	Amendment to pending applications (move to consolidated Part 1 Rule).	1.927
101.31	Special temporary, temporary and conditional applications revise and see 1.933).	101.31
101.33	Who may sign applications (move to consolidated Part 1 Rule).	1.917
101.35	Preliminary processing of applications (move to consolidated Part 1 Rule).	1.926

101.37	Public notice period (move to consolidated Part 1 Rule).	1.933
101.39	Dismissal and return of applications (move to consolidated Part 1 Rule).	1.934
101.41	Ownership changes and agreements to amend or dismiss applications or pleadings (partially removed and rest moved to consolidated Part 1 Rule).	1.919, 1.927, 1.935
101.43	Opposition to applications (move to consolidated Part 1 Rule).	1.939
101.45	Mutually exclusive applications (revise to delete reference to random selection procedure)	101.45
101.47	Consideration of applications (move to consolidated Part 1 Rule).	1.915
101.53	Assignment or transfer of station authorizations (move to consolidated Part 1 Rule).	1.948
101.57	Modification of station license (move to consolidated Part 1 Rule).	1.947
101.59	Major/minor modifications (move to consolidated Part 1 Rule).	1.929
101.61	Certain modifications not requiring prior authorization (move to consolidated Part 1 Rule).	1.947
101.63(b), (d), (e)	Period of construction; certification of completion of construction (change to allow electronic filing of information via ULS; add notification section).	101.63(b), (d), (e)
101.65	Forfeiture and termination of station authorizations (change to allow electronic filing of information via ULS; delete reinstatement).	101.65
101.105(c)(3)	Interference protection criteria (change to allow electronic filing of information via ULS).	101.105(c)(3)
101.305	Discontinuance, reduction or impairment of service (change to allow electronic filing of information via ULS).	101.305
101.309	Requirement that licensees respond to official communications (change to allow electronic filing of information via ULS).	101.309
101.413	Developmental report required (change to allow electronic filing of information via ULS).	101.413

101.701(c)	Eligibility (change to allow electronic filing of information via ULS).	101.701(c)
101.705(a)	Renewal of station licenses (move to consolidated Part 1 Rule as well as Amended Part 101 Rule).	1.949, 101.705
101.815(a)(2), (b)	Stations at temporary fixed locations (change form number to reflect ULS forms).	101.815(a)(2), (b)
101.817(a)	Notification of station operation at temporary locations (change to allow electronic filing of information via ULS).	101.817(a)
101.1015	Application form and contents (move to consolidated Part 1 Rule).	1.913, 1.915

176. Section 101.3 is amended by adding the following new definition:

Sec. 101.3 Definitions.

Universal Licensing System (ULS). The consolidated database, application filing system and processing system for all Wireless Telecommunications Services. The ULS offers Wireless Telecommunications Bureau (WTB) applicants and the general public electronic filing of all applications requests, and full public access to all WTB licensing data.

177. Section 101.5 is amended by revising the form numbers in paragraph (b) in the following manner:

Sec. 101.5 Station authorization required.

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(b) A separate application form must be filed for each Digital Electronic Message Service Nodal Station. No license is required for a Digital Electronic Message User Station. Authority for a Digital Electronic Message Nodal Station licensee to serve a specific number of user stations to be licensed in the name of the carrier must be requested on FCC Form 601 filed for the Digital Electronic Message Nodal Station.

178. Section 101.9 is removed.

Sec. 101.9 [Removed]

179. Section 101.11 is removed.

Sec. 101.11 [Removed]

180. Section 101.13 is removed.

Sec. 101.13 [Removed]

181. Section 101.15 is removed.

Sec. 101.15 [Removed]

182. Section 101.19 is removed.

Sec. 101.19 [Removed]

183. Section 101.21 is amended by revising paragraph (g) to read as follows:

Sec. 101.21 Technical content of applications.

(g) Each application in the Local Multipoint Distribution Service must contain all technical information required by FCC Form 601 and any other applicable form or associated Public Notices and by any applicable rules in this part.

184. Section 101.23 is amended by revising in its entirety to read as follows:

Sec. 101.23 Waiver of rules.

Waiver of these rules may be granted upon application or on the Commission's own motion in accordance with section 1.925 of this chapter.

185. Section 101.25 is removed.

Sec. 101.25 [Removed]

186. Section 101.27 is removed.

Sec. 101.27 [Removed]

187. Section 101.29 is removed.

Sec. 101.29 [Removed]

188. In Section 101.31, subparagraphs (a), (c) and (d) are removed, and subparagraphs (b) and (e) remain as the text of the rule, redesignated with changes to the title and text to read as follows:

Sec. 101.31 Temporary and conditional authorizations.

(a) *Temporary authorization.* (1) Authorizations may be issued upon proper application for rendition of temporary service to subscribers under the following conditions:

(i) When a fixed station, authorized to operate at temporary locations, is to remain at a single location for more than 6 months, an application (FCC Form 601) for a station authorization designating that single location as the permanent location shall be filed at least 90 days prior to the expiration of

the 6-month period;

(ii) The station shall be used only for rendition of communication service at a remote point where the provision of wire facilities is not practicable within the required time frame; and

(iii) The antenna structure height employed at any location shall not exceed the criteria set forth in Sec. 17.7 of this chapter unless, in each instance, authorization for use of a specific maximum antenna structure height for each location has been obtained from the Commission prior to erection of the antenna. See Sec. 101.125.

(2) Applications for authorizations to operate stations at temporary locations under the provisions of this section shall be made upon FCC Form 601. Blanket applications may be submitted for the required number of transmitters.

(3) Except for operations in the 17.8-19.7 GHz band, the licensee of stations which are authorized pursuant to the provisions of paragraph (b) of this section shall notify the Commission at least five (5) days prior to installation of the facilities stating:

(i) The call sign, manufacturer's name, type or model number, output power and specific location of the transmitter(s);

(ii) The maintenance location for the transmitter;

(iii) The location of the transmitting or receiving station with which it will communicate and the identity of the correspondent operating such facilities;

(iv) The exact frequency or frequencies to be used;

(v) The public interest, convenience and necessity to be served by operation of the proposed installation;

(vi) The commencement and anticipated termination dates of operation from each location. In the event the actual termination date differs from the previous notification, written notice thereof promptly shall be given to the Commission;

(vii) A notification shall include compliance with the provisions of Sec. 101.21(e) when operations are to be conducted in the area of other terrestrial microwave stations and with the provisions of Sec. 101.21(e) when operations are to be conducted within the coordination distance contours of a fixed earth station; and

(viii) Where the notification contemplates initially a service which is to be rendered for a period longer than 90 days, the notification shall contain a showing as to why application should not be made for regular authorization.

(4) Less than 5 days advance notice may be given when circumstances require shorter notice provided such notice is promptly given and the reasons in support of such shorter notice are stated.

(5) A copy of the notification shall be kept with the station license.

(6) Operations in the 17.8-19.7 GHz band are prohibited in the areas defined in Sec. 101.123(d)(2). Operations proposed in the areas defined in Sec. 101.123(d)(1) may not commence without prior specific notification to, and authorization from, the Commission. Such notification will contain the information specified in paragraph (a)(3) of this section.

(b) *Conditional Authorization.* (1) An applicant for a new point-to-point microwave radio station(s) or a modification of an existing station(s) in the 3,700-4,200; 5,925-6,425; 6,525-6,875; 10,550-10,680; 10,700-11,700; 11,700-12,200; 12,200-12,700; 12,700-13,200; 13,200-13,250; 17,700-19,700; and 21,200-23,600 MHz bands (see Sec. 101.147 for specific service usage) may operate the proposed station(s) during the pendency of its applications(s) upon the filing of a properly completed formal application(s) that complies with subpart B of part 101 if the applicant certifies that the following conditions are satisfied:

(i) The frequency coordination procedures of Sec. 101.103 have been successfully completed;

(ii) The antenna structure(s) has been previously studied by the Federal Aviation Administration

and determined to pose no hazard to aviation safety as required by subpart B of part 17 of this chapter; or the antenna or tower structure does not exceed 6.1 meters above ground level or above an existing man-made structure (other than an antenna structure), if the antenna or tower has not been previously studied by the Federal Aviation Administration and cleared by the Commission;

(iii) The grant of the application(s) does not require a waiver of the Commission's rules;

(iv) The applicant has determined that the facility(ies) will not significantly affect the environment as defined in Sec. 1.1307 of this chapter;

(v) The station site does not lie within 56.3 kilometers of any international border, within a radio "Quiet Zone" identified in Sec. 101.123 or, if operated on frequencies in the 17.8-19.7 GHz band, within any of the areas identified in Sec. 101.123(d);

(vi) The filed application(s) does not propose to operate in the 10.6-10.68 GHz band, or in the 21.2-23.6 GHz band with an E.R.P. greater than 55 dBm pursuant to Sec. 101.147(s); and

(vii) The filed application(s) is consistent with the proposal that was coordinated pursuant to Sec. 101.103.

(2) Conditional authority ceases immediately if the application(s) is rejected by the Commission because it is not acceptable for filing.

(3) A conditional authorization pursuant to paragraphs (a) and (b) of this section is evidenced by retaining the original executed conditional licensing Certification Form with the station records. Conditional authorization does not prejudice any action the Commission may take on the subject application(s). Conditional authority is accepted with the express understanding that such authority may be modified or cancelled by the Commission at any time without hearing if, in the Commission's discretion, the need for such action arises. An applicant operating pursuant to this conditional authority assumes all risks associated with such operation, the termination or modification of the conditional authority, or the subsequent dismissal or denial of its application(s).

(4) The Certification Form, or a copy thereof, must be posted at each station operating pursuant to this section consistent with Sec. 101.215.

189. Section 101.33 is removed.

Sec. 101.33 [Removed]

190. Section 101.35 is removed.

Sec. 101.35 [Removed]

191. Section 101.37 is removed.

Sec. 101.37 [Removed]

192. Section 101.39 is removed.

Sec. 101.39 [Removed]

193. Section 101.41 is removed.

Sec. 101.41 [Removed]

194. Section 101.43 is removed.

Sec. 101.43 [Removed]

195. Section 101.45 is amended by deleting paragraph (h) and by revising paragraphs (b), (d) and (f) to read as follows:

Sec. 101.45 Mutually exclusive applications.

(a) * * *

(b) A common carrier application, except in the Local Multipoint Distribution Service, will be entitled to comparative consideration with one or more conflicting applications only if:

(1) * * *

* * * * *

(d) Private operational fixed point-to-point microwave applications for authorization under this part will be entitled to comparative consideration with one or more conflicting applications in accordance with the provisions of Sec. 1.227(b)(4) of this chapter.

(e) * * *

(f) * * *

(1) * * *

(2) The amendment resolves frequency conflicts with authorized stations or other pending applications which would otherwise require resolution by hearing or by comparative evaluation pursuant to Sec. 101.51 provided that the amendment does not create new or additional frequency conflicts;

* * * * *

(h) [removed]

196. Section 101.47 is removed.

Sec. 101.47 [Removed]

197. Section 101.53 is removed.

Sec. 101.53 [Removed]

198. Section 101.57 is removed.

Sec. 101.57 [Removed]

199. Section 101.59 is removed.

Sec. 101.59 [Removed]

200. Section 101.61 is removed.

Sec. 101.61 [Removed]

201. Sections 101.63(b), (d) and (e) are amended as follows:

Sec. 101.63 Period of construction; certification of completion of construction.

(b) Failure to timely begin operation means the authorization cancels automatically.

(d) Requests for extension of time to be in operation may be granted upon a showing of good cause, setting forth in detail the applicant's reasons for failure to have the facility operating in the prescribed period. Such requests shall be made using FCC Form 601 and must be submitted no later than 30 days prior to the end of the prescribed period, either electronically via the Universal Licensing System, or, where permitted, by mail to the Federal Communications Commission, Gettysburg, PA 17325-7245.

(e) Construction of any authorized facility or frequency must be completed by the date specified in the license as the termination date of the construction period. The licensee must notify the Commission of the completion of construction in accordance with section 1.946 of this chapter. Licensees who fail to complete construction will have their authorizations terminated automatically, or in the case of unconstructed frequencies not constituting the entire license, the licensee must file an application to delete the frequencies from the license, to return them to their previous condition, within 15 days after the expiration of the construction period specified on the license.

202. Section 101.65 (b) is removed to delete the provision for reinstatement of a terminated stations authorization, subparagraph (c) is redesignated subparagraph (b), and subparagraph (d) is redesignated subparagraph (c) and is amended as follows:

Sec. 101.65 Forfeiture and termination of station authorizations.

* * *

(b) A special temporary authorization will automatically terminate upon the expiration date specified therein, or upon failure to comply with any special terms or conditions set forth therein. Operation may be extended beyond such termination date only after application and upon specific authorization by the Commission.

(c) If a station licensed under this part discontinues operation on a permanent basis, the licensee must electronically notify the Commission of the cancellation. For purposes of this section, any station which has not operated for one year or more is considered to have been permanently discontinued. See Sec. 101.305 for additional rules regarding temporary and permanent discontinuation of service.

203. Section 101.105(c)(3) is amended as follows:

Sec. 101.105 Interference protection criteria.

* * *

(3) Applicants for frequencies listed in Sec. 101.147(b)(1) must make the following showings that protection criteria have been met over the entire service area of existing systems by filing Schedule ___ with their applications. The schedule may be filed by the applicant or may be filed on behalf of the applicant by a frequency coordinator.

* * *

204. Section 101.305 is amended as follows:

Sec. 101.305 Discontinuance, reduction, or impairment of service.

(a) If the public communication service provided by a station in the Common Carrier Radio Services and the Local Multipoint Distribution Service is involuntarily discontinued, reduced or impaired for a period exceeding 48 hours, the station licensee must promptly notify the Commission electronically where feasible, or in writing at Federal Communications Commission, Common Carrier Radio Services, 1270 Fairfield Road, Gettysburg, Pennsylvania 17325. In every such case, the licensee must furnish full particulars as to the reasons for such discontinuance, reduction or impairment of service, including a statement as to when normal service is expected to be resumed. When normal service is resumed, prompt notification thereof must be given electronically, or in writing to the Federal Communications Commission at the above address.

(b) No station licensee subject to title II of the Communications Act of 1934, as amended, may voluntarily discontinue, reduce or impair public communication service to a community or part of a community without obtaining prior authorization from the Commission pursuant to the procedures set forth in part 63 of this chapter. In the event that permanent discontinuance of service is authorized by the Commission, the station license is terminated; except that station licenses in the Local Multipoint Distribution Service are not terminated if the discontinuance is a result of a change of status by the licensee from common carrier to non-common carrier pursuant to Sec. 101.61.

(c) Any licensee not subject to title II of the Communications Act of 1934, as amended, who voluntarily discontinues, reduces or impairs public communication service to a community or a part of a community must give electronic or written notification to the Commission within 7 days thereof. In the event of permanent discontinuance of service, the station license is automatically terminated; except that station licenses in the Local Multipoint Distribution Service are not terminated if the discontinuance is a result of a change of status by the licensee from non-common carrier to common carrier pursuant to Sec. 101.61.

(d) If any common carrier radio frequency should not be used to render any service as authorized during a consecutive period of twelve months at any time after construction is completed under circumstances that do not fall within the provisions of paragraph (a), (b), or (c) of this section, or, if removal of equipment or facilities has rendered the station not operational, the licensee must, within thirty days of the end of such period of nonuse:

(1) Electronically notify the Commission that it cancels the station license (or licenses); or

* * *

205. Section 101.309 is revised to read as follows:

Sec. 101.309 Requirement that licensees respond to official communications.

All licensees in these services are required to respond to official communications from the Commission with reasonable dispatch and according to the tenor of such communications. Failure to do so will be given appropriate consideration in connection with any subsequent applications which the offending party may file and may result in the designation of such applications for hearing, or in appropriate cases, the institution of proceedings looking to the modification or revocation of the pertinent authorizations. Where feasible, licensees may respond to such official communications electronically via the Universal Licensing System

206. Section 101.413 is amended to delete the requirement that a report must be submitted in duplicate.

Sec. 101.413 Developmental report required.

(a) Upon completion of the program of research and development, or, in any event, upon the expiration of the instrument of station authorization under which such investigations were permitted, or at such times during the term of the station authorization as the Commission may deem necessary to evaluate the progress of the developmental program, the licensee must submit a comprehensive report on the following items, in the order designated:

* * *

207. Section 101.701(c) is amended to change the demonstration requirement to a certification.

Sec. 101.701 Eligibility.

* * *

(c) Applications for stations or frequencies that will be used primarily to relay broadcast television signals must include a certification that at least fifty percent of the customers (or points of service) on the microwave system involved, including those served through an interconnecting carrier(s), receiving applicant's service, will not be related or affiliated in any degree with the applicant, and that the proposed usage by such customers, in terms of hours of use and channels delivered, must constitute at least fifty percent of the usage of the applicant's microwave service. Applications that do not contain these certifications will be returned as unacceptable for filing.

208. Section 101.705 is amended to remove subparagraph (a) and to clarify the title and text as follows:

Sec. 101.705 Special showing for renewal of common carrier station facilities using frequency diversity.

Any application for renewal of license, for a term commencing January 1, 1975, or after, involving facilities utilizing frequency diversity must contain a statement showing compliance with Sec. 101.103(c) or the exceptions recognized in paragraph 141 of the "First Report and Order" in Docket No. 18920 (29 FCC 2d 870). (This document is available at: Federal Communications Commission, Library (Room 639), 1919 M Street, NW., Washington, DC.) If not in compliance, a complete statement with the reasons therefor must be submitted.

209. Sections 101.815(a)(2) and (b) are amended to show a form number change as follows:

Sec. 101.815 Stations at temporary fixed locations.

(a) * * *

* * *

(2) When a fixed station authorized to operate at temporary locations is installed and it subsequently becomes necessary for the station to operate from such location for more than six months, application FCC Form 601 for a station authorization to specify the permanent location must be filed at least thirty days prior to the expiration of the six month period.

* * *

(b) Applications for authorizations to operate stations at temporary locations under the provisions of this section may be made upon FCC Form 601. Blanket applications may be submitted for the required number of transmitters.

* * * * *

210. Section 101.817(a) is amended as follows:

Sec. 101.817 Notification of station operation at temporary locations.

(a) The licensee of stations authorized pursuant to Sec. 101.813 must notify the Commission prior to each period of operation. This notification must be made by electronic filing and must include:

* * *

211. Section 101.1015 is removed.

Sec. 101.1015 [Removed].

APPENDIX O

Initial Regulatory Flexibility Analysis *Notice of Proposed Rulemaking*

As required by the Regulatory Flexibility Act (RFA),¹ the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the rules proposed in the Notice of Proposed Rulemaking (NPRM) in WT Docket No. 98-XX. Written public comments are requested on the IRFA. Comments on the IRFA must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the NPRM and IRFA (or summaries thereof) will be published in the Federal Register.

A. Need for, and objectives of, the proposed rules

In this NPRM, the Commission proposes to revise and consolidate the rules governing application procedures for radio services licensed by the Wireless Telecommunications Bureau ("wireless radio services"). Specifically, the Commission proposes to modify and consolidate the rules to: (1) facilitate the development of electronic filing through the universal licensing system (ULS); (2) require, where appropriate, electronic filing of applications; (3) streamline licensing processes and procedures; and (4) conform application and filing rules for all wireless radio services licensees so that similarly situated applicants and licensees are treated fairly.

B. Legal basis

The proposed action is authorized under sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 161, 303(g), 303(r), and 332(c)(7).

C. Description and estimate of the number of small entities to which rules will apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by our rules.² The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."³ A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."⁴ Nationwide, there are

¹ See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

² 5 U.S.C. §§ 603(b)(3), 604(a)(3).

³ 5 U.S.C. § 601(6).

⁴ 5 U.S.C. § 601(4).

275,801 small organizations.⁵ "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000."⁶ As of 1992, there were 85,006 such jurisdictions in the United States.⁷

In addition, the term "small business" has the same meaning as the term "small business concern" under Section 3 of the Small Business Act.⁸ Under the Small Business Act, a "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).⁹

The rule changes proposed in the *NPRM*, if adopted, will affect all small businesses filing new license applications or modifying or renewing an existing license. To assist the Commission in analyzing the total number of affected small entities, commenters are requested to provide estimates of the number of small entities who will be affected by the rules proposed in this *NPRM*. The Commission estimates the following number of small entities may be affected by the proposed rule changes:

1. Cellular Radiotelephone Service

The Commission has not developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons.¹⁰ The size data provided by the SBA does not enable us to make a meaningful estimate of the number of cellular providers which are small entities because it combines all radiotelephone companies with 1000 or more employees.¹¹ The 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, is the most recent information available. This document shows that only twelve radiotelephone firms out

⁵ 1992 Economic Census, U.S. Bureau of the Census, Table 6, (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

⁶ 5 U.S.C. § 601(5).

⁷ U.S. Department of Commerce, Bureau of the Census, "1992 Census of Governments."

⁸ 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632).

⁹ 15 U.S.C. § 632.

¹⁰ 13 C.F.R. § 121.201, Standard Industrial Classification (SIC) Code 4812.

¹¹ U.S. Small Business Administration 1992 Economic Census Employment Report, Bureau of the Census, U.S. Department of Commerce, (radiotelephone communications industry data adopted by the SBA Office of Advocacy) (SIC Code 4812).

of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.¹² Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. The Commission assumes, for purposes this IRFA, that all of the current cellular licensees are small entities, as that term is defined by the SBA. In addition, the Commission notes that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. The most reliable source of information regarding the number of cellular service providers nationwide appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). The report places cellular licensees and Personal Communications Service (PCS) licensees in one group. According to the data released in November, 1997, there are 804 companies reporting that they engage in cellular or PCS service.¹³ It seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees; however, the Commission is unable at this time to estimate with greater precision the number of cellular service carriers qualifying as small business concerns under the SBA's definition. For purposes of this IRFA, the Commission estimates that there are fewer than 804 small cellular service carriers.

2. Broadband and narrowband PCS

Broadband PCS. The broadband PCS spectrum is divided into six frequency blocks designated A through F. The Commission has defined "small entity" in the auctions for Blocks C and F as a firm that had average gross revenues of less than \$40 million in the three previous calendar years.¹⁴ This definition of "small entity" in the context of broadband PCS auctions has been approved by the SBA.¹⁵ The Commission has auctioned broadband PCS licenses in blocks A through F. Of the qualified bidders in the C and F block auctions, all were entrepreneurs. Entrepreneurs was defined for these auctions as entities, together with affiliates, having gross revenues of less than \$125 million and total assets of less than \$500 million at the time the FCC Form 175 application was filed. Ninety bidders, including C block reauction winners, won 493 C block licenses and 88 bidders won 491 F block licenses. For purposes of this IRFA, the Commission assumes that all of the 90 C block broadband PCS licensees and 88 F block broadband PCS licensees, a total of 178 licensees, are small entities.

Narrowband PCS. The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have

¹² U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92-S-1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms: 1992, SIC Code 4812 (issued May 1995).

¹³ FCC, *Telecommunications Industry Revenue: TRS Fund Worksheet Data*, Figure 2 (Number of Carriers Paying Into the TRS Fund by Type of Carrier) (Nov. 1997).

¹⁴ See 47 C.F.R. § 24.720(b)(1).

¹⁵ See Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, PP Docket No. 93-253, *Fifth Report and Order*, 9 FCC Rcd 5532, 5581-84 (1994).